

19-163-cv (L)
d'Amico Dry d.a.c v. Sonic Finance Inc., et al

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

SUMMARY ORDER

RULINGS BY SUMMARY ORDER DO NOT HAVE PRECEDENTIAL EFFECT. CITATION TO A SUMMARY ORDER FILED ON OR AFTER JANUARY 1, 2007, IS PERMITTED AND IS GOVERNED BY FEDERAL RULE OF APPELLATE PROCEDURE 32.1 AND THIS COURT'S LOCAL RULE 32.1.1. WHEN CITING A SUMMARY ORDER IN A DOCUMENT FILED WITH THIS COURT, A PARTY MUST CITE EITHER THE FEDERAL APPENDIX OR AN ELECTRONIC DATABASE (WITH THE NOTATION "SUMMARY ORDER"). A PARTY CITING A SUMMARY ORDER MUST SERVE A COPY OF IT ON ANY PARTY NOT REPRESENTED BY COUNSEL.

At a stated term of the United States Court of Appeals for the Second Circuit, held at the Thurgood Marshall United States Courthouse, 40 Foley Square, in the City of New York, on the 18th day of February, two thousand twenty.

PRESENT: DENNIS JACOBS,
DENNY CHIN,
JOSEPH F. BIANCO,
Circuit Judges.

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D'AMICO DRY D.A.C.,
Plaintiff-Appellee,

D'AMICO DRY LIMITED,
Plaintiff,

-v-

19-163-cv
19-1472-cv

SONIC FINANCE INC., MIRAGE FINANCE INC.,
HANDY FINANCE INC., PASHA FINANCE INC.,
MOVIDA FINANCE INC., ELEMENT FINANCE
INC., CALDERA MARINE CO. LTD., ADALIA
MARINE CO. LTD., SEASATIN NAVIGATION
INC., ANNAMAR NAVIGATION INC., SEASAFE
NAVIGATION INC., CHEMNAV INC., BULKNAV

INC., CHEMNAV SHIPMANAGEMENT LTD.,
PRIMEBULK SHIPMANAGEMENT LTD.,
Defendants-Appellants,

PRIMERA MARITIME (HELLAS) LIMITED, AKA
Primera Maritime Limited, NIKKA FINANCE
INCORPORATED, PAUL CORONIS, NIKOLAOS
CORONIS, AKA Nicholas Coronis, PRIMERA
OCEAN SERVICES S.A., J.P.C. INVESTMENTS S.A.,
AKA JPC Investments S.A., PRIMERA MARITIME
LIMITED,

Defendants.

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FOR PLAINTIFF-APPELLEE:

THOMAS L. TISDALE (Timothy J. Nast,
on the brief), Tisdale Law Offices, LLC,
New York, New York.

FOR DEFENDANTS-APPELLANTS:

WILLIAM R. BENNETT III (Lauren B.
Wilgus, *on the brief*), Blank Rome LLP,
New York, New York.

Appeal from the United States District Court for the Southern District of
New York (Koeltl, J.).

**UPON DUE CONSIDERATION, IT IS ORDERED, ADJUDGED, AND
DECREEED** that the judgment and order of the district court are **AFFIRMED**, and the
case is **REMANDED** for further proceedings.

In September 2009, plaintiff-appellee d'Amico Dry d.a.c. ("d'Amico")
sought enforcement in the Southern District of New York of a judgment it obtained in
the English High Court of Justice on June 19, 2009 against Primera Maritime (Hellas)

Limited ("Primera") following Primera's breach of a forward freight agreement. The district court entered judgment in favor of d'Amico on December 28, 2018, awarding \$3,162,552.18 in principal, interest, and legal costs. In a memorandum and order entered April 24, 2019, the district court awarded d'Amico \$898,807.44 in attorneys' fees and costs. Defendants-appellants appeal both the judgment and the award of fees and costs. We assume the parties' familiarity with the underlying facts, procedural history, and issues on appeal.

The district court supervised this case for some 10 years. It conducted a non-jury trial, reviewed the evidence, and heard and evaluated the witnesses. It made detailed findings of fact and conclusions of law. We see no clear error in its factual findings, *see Beck Chevrolet Co. v. Gen. Motors LLC*, 787 F.3d 663, 672 (2d Cir. 2015) (district court's factual findings reviewed for clear error), and no abuse of discretion in its determinations that defendants-appellants waived certain arguments and defenses, *see Brown v. City of New York*, 862 F.3d 182, 187 (2d Cir. 2017) (district court's decision that an argument was waived reviewed for abuse of discretion). After an independent review of the record and relevant case law, we affirm for substantially the reasons articulated by the district court in its thorough and carefully reasoned decisions. *See D'Amico Dry D.A.C. Dry v. Primera Mar. (Hellas) Ltd.*, No. 09-CV-7840 (JGK), 2019 WL 1863789 (S.D.N.Y. Apr. 24, 2019); *D'Amico Dry D.A.C. v. Primera Mar. (Hellas) Ltd.*, 348 F. Supp. 3d 365 (S.D.N.Y. 2018).

d'Amico seeks its attorneys' fees and costs for litigating this appeal. We agree that fees and costs are warranted, and **REMAND** to the district court for the limited purpose of calculating reasonable attorneys' fees and costs.

* * *

We have considered defendants-appellants' remaining arguments and conclude they are without merit. For the foregoing reasons, we **AFFIRM** the judgment and order, and **REMAND** the case for further proceedings consistent with this order.

FOR THE COURT:

Catherine O'Hagan Wolfe, Clerk


Catherine O'Hagan Wolfe

A True Copy

Catherine O'Hagan Wolfe, Clerk

United States Court of Appeals, Second Circuit



Catherine O'Hagan Wolfe -4-